

BEFORE THE STATE SUPERINTENDENT OF PUBLIC INSTRUCTION

In the Matter of Redmond 2J School District)
)
)
)

FINDINGS OF FACT,
CONCLUSIONS,
AND FINAL ORDER
Case No. 23-054-050

I. BACKGROUND

On December 21, 2023, the Oregon Department of Education (Department) received a written request for a special education complaint investigation from the parent (Parent) of a student (Student) residing in the Redmond 2J School District (District). The Parent requested that the Department conduct a special education investigation under OAR 581-015-2030. The Department confirmed receipt of this Complaint and forwarded the request to the District.

Under state and federal law, the Department must investigate written complaints that allege violations of the Individuals with Disabilities Education Act (IDEA) and issue an order within sixty days of receipt of the complaint.¹ This timeline may be extended if the Parent and the District agree to the extension in order to engage in mediation or local resolution or for exceptional circumstances related to the complaint.²

On December 29, 2023, the Department’s Complaint Investigator sent a *Request for Response* to the District identifying the specific allegations in the Complaint to be investigated and establishing a *Response* due date of January 12, 2024.

The District submitted a *Response* on January 11, 2024, denying some of the allegations, not contesting some of the allegations, providing an explanation, and submitting documents in support of the District’s position. The District submitted the following relevant items:

1. District’s Written *Response* to Complaint, 1/11/2024
2. Letter to [Investigator], 1/11/24
3. 2022-23 3rd Grade Events and 2023-24 4th Grade Events, no date
4. Communication Log - [Program]/[School], 2/8/23 - 3/8/23
5. [Program] Student Working File Information Sheet Grade 3, 11/7/22 - 8/16/23
6. [Program] Student Working File Information Sheet Grade 4, 6/7/23 - 2/3/24
7. [Program] Special Ed Student Contact Log, 1/2/24
8. [District] Physical Restraint/Seclusion Incident Reporting Form, 9/25/23
9. [District] Debriefing Notes Physical Restraint/Seclusion Incident, 9/27/23
10. [District] Student Monitoring Form, 9/25/23
11. [District] Restraint/Seclusion Checklist, no date
12. [District] Physical Restraint/Seclusion Incident Reporting Form, 10/10/23
13. [District] Student Monitoring Form, 10/10/23
14. [District] Debriefing Notes Physical Restraint/Seclusion Incident, 10/11/23
15. School Bus Referral Form, 10/10/23

¹ OAR 581-015-2030(12) and 34 CFR § 300.152(a)

² OAR 581-015-2030(12) and 34 CFR § 300.152(b)

16. [District] Physical Restraint/Seclusion Incident Reporting Form, 10/2/23
17. [District] Student Monitoring Form, 10/2/23
18. [District] Debriefing Notes Physical Restraint/Seclusion Incident, no date
19. [District] Restraint/Seclusion Checklist, no date
20. [District] Physical Restraint/Seclusion Incident Reporting Form, 9/27/23
21. [District] Debriefing Notes Physical Restraint/Seclusion Incident, no date
22. [District] Student Monitoring Form, 9/27/23
23. Meeting Summary, 9/27/23
24. [District] IEP Meeting, 9/27/23
25. [District] Restraint/Seclusion Checklist, no date
26. [District] Seclusion Incident Reporting Form, 9/9/22
27. [District] Student Monitoring Record, 9/9/22
28. [District] Debriefing Notes Physical Restraint/Seclusion Incident, 9/12/22
29. [District] Physical Restraint Incident Reporting Form, 9/12/22 2:50 pm
30. [District] Physical Restraint Incident Reporting Form, 9/12/22 2:55 pm
31. [District] Physical Restraint Incident Reporting Form, 9/12/22 3:00 pm
32. [District] Seclusion Incident Reporting Form, 9/12/22, 3:05 pm
33. [District] Student Monitoring Record, 9/12/22
34. [District] Debriefing Notes Physical Restraint/Seclusion Incident, 9/12/22
35. [District] Physical Restraint Incident Reporting Form, 9/15/22 11:01 am
36. [District] Physical Restraint Incident Reporting Form, 9/15/22 11:05 am
37. [District] Physical Restraint Incident Reporting Form, 9/15/22 11:15 am
38. [District] Physical Restraint Incident Reporting Form, 9/15/22 11:20 am
39. [District] Student Monitoring Record, 9/15/22
40. [District] Debriefing Notes Physical Restraint/Seclusion Incident, 9/15/22
41. [District] Physical Restraint Incident Reporting Form, 10/18/22
42. [District] Student Monitoring Record, 10/18/22
43. [District] Debriefing Notes Physical Restraint/Seclusion Incident, 10/20/22
44. Attendance Report, 10/20/22
45. [Student] Seclusion Debrief (Virtual), 10/20/22
46. [District] Seclusion Incident Reporting Form, 10/7/22
47. [District] Student Monitoring Record, 10/7/22
48. [District] Debriefing Notes Physical Restraint/Seclusion Incident, 10/7/22
49. [District] Physical Restraint Incident Reporting Form, 11/1/22 12:52
50. [District] Seclusion Incident Reporting Form, 11/1/22 1:05
51. [District] Student Monitoring Form, 11/1/22
52. [District] Physical Restraint Incident Reporting Form, 11/1/22, 2:45
53. [District] Seclusion Incident Reporting Form, 11/1/22 2:50 pm
54. [District] Student Monitoring Form, 11/2/22
55. [District] Debriefing Notes Physical Restraint/Seclusion Incident, 11/3/22
56. [Program] Daily Attendance Profile, Grade 4, 1/11/24
57. [Program] Daily Attendance Profile, Grade 3, 1/11/24
58. [School] Daily Attendance Profile, Grade 3, 1/4/24
59. [School] Daily Attendance Profile, Grade 4, 1/4/24
60. Meeting Summary, 10/11/23
61. [District] Physical Restraint/Seclusion Incident Reporting Form, 9/25/23
62. [District] Physical Restraint/Seclusion Incident Reporting Form, 9/27/23
63. [District] Debriefing Notes Physical Restraint/Seclusion Incident, no date
64. [District] Student Monitoring Form, 9/27/23
65. [District] Physical Restraint/Seclusion Incident Reporting Form, 10/18/22
66. [District] Debriefing Notes Physical Restraint/Seclusion Incident, 10/20/22
67. [Student] Seclusion Debrief (virtual), 10/20/22

68. State of Oregon, Certificate of Live Birth for [Student], no date
69. Oregon Certificate of Immunization Status Oregon Health Authority, Immunization Program for [Student], no date
70. [District] [Student] IEP cover letter, 10/15/23
71. [School] End of Year Academic Learning Target, Grade 1, 6/14/21
72. [School] End of Year Academic Learning Target, Grade KG, 6/4/20
73. Student Enrollment Form, 8/17/22
74. [School] End of Year Academic Learning Target, Grade 2, 6/13/22
75. [District] Third Grade Report Card 2022-23, 6/16/23
76. [Original District] Registration Form, 4/24/20
77. Student Rating Scale, 9/11/23 - 10/9/23
78. [School] Student Dashboard, no date
79. [School] Referral {in school suspension}, 10/10/23
80. Student Bus Schedule, no date
81. 23-24 Special Ed Roster, bus schedule
82. Request for Special Transportation, 12/1/23
83. School Bus Referral Form, 10/10/23
84. [District] Physical Restraint Incident Reporting Form, 10/10/23 8:34 am
85. [District] Request for special transportation, 6/14/23
86. School Bus referral form, 10/10/23
87. School Bus Referral Form, 5/2/23
88. School Bus Referral Form, 10/10/23
89. School Bus Referral Form, 3/7/23
90. Strategies to use on the bus for [Student], 5/16/23
91. Vision Screening Summary, 12/15/23
92. Restraint Training Completion sheet, 10/23/23 - 11/1/23
93. 22-23 SSEATs - Individual Tracking Notes, 9/8/22
94. [Program] Social and Emotional Learning Program, Behavior Intervention Plan & Progress, November and December, no date
95. [Program] Social and Emotional Learning Program, February Progress Report 2022/2023, no date
96. [Program] Social and Emotional Learning Program, March Progress Report 2022/2023, no date
97. [Program] Social and Emotional Learning Program, April Progress Report 2022/2023, no date
98. 23-24 Care Coordination Notes, 9/8/22
99. [Program] Social and Emotional Learning Program, September Progress Report 2023/2024, no date
100. [Program] Social and Emotional Learning Program, October Progress Report 2023/2024, no date
101. [District] Individualized Education Program, Amendment, 2/28/23
102. [Student's] Virtual Visual Schedule 8:55-10:20, no date
103. [Student's] September data analysis, no date
104. Individual Safety Plan, 10/27/23
105. Meeting Summary, 10/23/23
106. Behavior Support Plan, 10/23/23
107. Special Education Placement Determination, 10/23/23
108. Notice of Team Meeting, 10/13/23
109. Notice of Team Meeting, 9/15/23
110. Prior Written Notice for IEP, 10/23/23
111. Meeting Summary, 10/11/23
112. ESY Parent Information Form, signed, 5/3/23

113. [District to District] Request for Educational Records, 9/7/23
114. Special Ed Bus Release Form, signed, 5/3/23
115. Extended School Year Considerations, 5/1/23
116. IEP Service Summary, page 10, 2/28/23
117. ESY Form, no date
118. IEP Measurable Annual Goals, page 8, 2/28/23
119. IEP Category: Behavior, Page 9, 2/28/23
120. Behavior Support Plan, 11/1/22
121. Prior Written Notice for IEP, Pages 1-2, 2/28/23
122. Individualized Education Program, Pages 1-13, 2/28/23
123. Meeting Summary, pages 1-4, 2/28/23
124. Special Education Placement Determination, Pages 1-3, 2/28/23
125. [District] Additional Assessment Report, Pages 1-3, 2/28/23
126. [Elementary Teacher Input Form, no date
127. [Program] Social and Emotional Learning Program, February Progress Report 2022/2023, pages 1-5, no date
128. Specialist Input form, pages 1-2, no date
129. Notice of Team Meeting, 12/14/22
130. Parent/Guardian Consent for Individual Evaluation, Signed, 12/13/22
131. Prior Written Notice for IEP, 12/13/22
132. Meeting Summary, 12/13/22
133. Regional Support Services, Occupational Therapy Evaluation, 10/26/22
134. Notice of Team Meeting, 11/28/22
135. [Parent's] IEP Meeting Notes for 11/9/22 Meeting, 11/9/22
136. Teacher notes, 10/25/22
137. [District] Fax: Signed Authorization for Release of Information, 10/14/22
138. Parent/Guardian Consent for Individual Evaluation, signed, 9/21/22
139. Notice of Team Meeting, 9/8/22
140. IEP Meeting Attendance and Agenda, 9/12/22
141. Parent/Guardian Consent for Individual Evaluation, unsigned, 9/12/22
142. Parent/Guardian Consent for Individual Evaluation, signed, 9/21/22
143. Parent/Guardian Consent for Individual Evaluation, unsigned, 9/21/22
144. Prior Written Notice for IEP, 9/12/22
145. Meeting Summary 9/12/22
146. Notice of Team Meeting, no date
147. Prior Written Notice, Transfer or Move-In, 9/1/22
148. Notice of Team Meeting, 8/25/22
149. IEP Meeting Minutes, 6/1/22
150. [Prior District] Notice of Team Meeting, 5/29/22
151. [Former District] Authorization to Use and/or Disclose Educational and Protected Health Information, signed, 10/4/13
152. [Prior District] Prior Notice of Special Education Action, 6/1/22
153. [Prior School] Progress Report, June 2021
154. [Prior School] Conference Goals, no date
155. [Prior School] Fall Goals, no date
156. [Prior District] Prior Notice of Special Education Action, 6/1/22
157. [Prior District] Prior Written Notice of a Special Education Action, 3/21/22
158. Oregon Department of Human Services, Disability Determination Services, 2/8/22
159. [District] Transfer/Interim IEP (not official document), 3/7/22
160. Health, Housing & Human Services, signed release for exchange of information, 1/19/22
161. [Hospital] Information Disclosure, 6/17/21
162. Oregon Department of Human Services, Disability Determination Services, 2/16/22

163. [Prior District] Prior Meeting Documentation, 5/12/22
164. [Prior District] Prior Meeting Documentation, 4/2/21
165. [Prior School] Fax: Request for Information, cover sheet, 10/22/20
166. [Student] Release of Information for Pediatrician, AdobeSign, 10/21/20
167. [Prior District] Authorization to use and/or Disclose Educational and Protected Health Information, 10/21/20
168. [Prior District] Request for Medical Information, no date
169. Speech-Language Screening Report, 11/17/23
170. Speech-Language Screening Report - Addendum, 12/15/23
171. OT Notes from IEP year 2/28/23-01/02/23 re: [Student], 01/2/24
172. [Program] Student Working File Information Sheet, 8/16/23
173. [Program] Student Working File Information Sheet, 2/3/24
174. Individual Safety Plan, updated, 10/27/23
175. Behavior Support Plan, 11/1/22
176. [District] Functional Behavior Assessment, 11/1/22
177. Oregon Department of Education, Authorization to use and/or disclose educational and protected health information, 6/16/23
178. [District] Authorization to use and/or disclose educational and protected health information, 6/16/23
179. Oregon Department of Education, Authorization to use and/or disclose educational and protected health information, 4/12/23
180. [County] Health services, Developmental Disability Program Authorization for release of child's protected health information, 10/4/22
181. [Student's] Plan, no date
182. [Student's] Escalation Cycle, 2/12/21
183. [Prior District] Statement of Eligibility for Special Education/Prior Notice of Special Education Action (Autism Spectrum Disorder 82), 4/22/22
184. [District] Additional Assessment Report, 2/28/23
185. Confidential Psychological Assessment, 9/13/21
186. Psychotherapy Progress Note, 3/31/20
187. Psychotherapy Progress Note, 3/24/20
188. Psychotherapy Progress Note, 3/18/20
189. Psychotherapy Progress Note, 3/2/20
190. Psychotherapy Progress Note, 3/19/20
191. Psychotherapy Progress Note, 3/5/20
192. [Prior District] Request for Medical Information, 12/22/20
193. Occupational Therapy Evaluation, 10/26/22
194. [Prior District] Fax cover sheet, Records request, no date
195. [Outpatient Clinic] Records cover sheet, 9/27/22
196. Child and Family Services [Clinic] Psychiatric Diagnostic Evaluation, 10/6/21
197. Child and Family Services [Clinic] Psychiatric Diagnostic Evaluation, 10/12/21
198. Child and Family Services [Clinic] Psychiatric Diagnostic Evaluation, 11/2/20
199. [Clinic] Medications - Active, 9/26/22
200. Child and Family Services [Clinic] Psychiatric Diagnostic Evaluation, 8/3/22
201. [Prior District] Statement of Eligibility for Special Education/Prior Notice of Special Education Action (other Health Impairment 80), 4/22/22
202. [Prior District] Statement of Eligibility for Special Education/Prior Notice of Special Education Action (Emotional Disturbance 60), 4/22/22
203. [Prior District] Re-Evaluation Planning Form, 4/22/21
204. Behavior Logon Chart, 1/5/24
205. [Program] Social and Emotional Learning Program, Nov/Dec Progress Report 2023/2024, no date

- 206. 23-24 [Program] Specials & Groups Schedule, no date
- 207. School Website, Reviewed 1/31/24
- 208. Alternate School Website, Reviewed 1/31/24
- 209. Emails from January 17, 2023, through December 11, 2023

The Parent submitted a *Reply* to the District *Response* on January 20, 2024, providing an explanation and documents in support of the Parent's position. The Parent's *Reply* clarified that the request for solo transportation was not part of their complaint and requested this portion of the Complaint be omitted from the investigation. The Parent submitted the following relevant items:

- 1. Parent's *Reply* to the District's *Response* to RFR, 1/20/24
- 2. Text, 10/12/23
- 3. Letter re: Free or Reduced meals, 7/28/23
- 4. Additional Assessment Report, 2/28/23
- 5. [Student] Bus Protocol 3/22/23 (updated 5/16/23), 5/16/23
- 6. Meeting Summary, 10/11/23
- 7. Notice of Team Meeting, 10/13/23
- 8. Individual Safety Plan, 10/27/23
- 9. [Student's] Virtual Visual Schedule 8:55-10:20, no date
- 10. Behavior Support Plan, 10/23/23
- 11. [District] Physical Restraint Incident Reporting Form, 10/10/23
- 12. Meeting Summary 10/23/23
- 13. IEP Meeting Attendance and Agenda, 10/23/23
- 14. Parent Input and Concerns for: [Student], 12/20/23
- 15. Parent Input and Concerns for: [Student], 10/19/23
- 16. Prior Written Notice for IEP, 10/18/23
- 17. [District] Physical Restraint Incident Reporting Form, 10/10/23
- 18. School Bus Referral Form, 10/10/23
- 19. [District] Physical Restraint/Seclusion Incident Reporting Form, 10/10/23
- 20. Student Monitoring Form, 10/10/23
- 21. Debriefing Notes Physical Restraint/Seclusion Incident, 10/11/23
- 22. Meeting Summary, 10/11/23
- 23. Screenshot of email correspondence with [Unknown Person], no date
- 24. Screenshot of messages relating to [Student], no date
- 25. Social and Emotional Learning Program, October Progress Report 2023/2024, October 23
- 26. Social and Emotional Learning Program, September Progress Report 2023/2024, September 23
- 27. Student Dashboard, 12/14/23
- 28. [Student's] September data analysis, no date
- 29. Payments in Lieu of District-Provided Transportation Monthly Reimbursement Request, 12/15/23
- 30. Emails from October 10, 2023 through December 13, 2023

The Complaint Investigator interviewed the Parent on January 22, 2024. The Complaint Investigator interviewed District personnel on January 24, 2024. The Complaint Investigator reviewed and considered all these documents, interviews, and exhibits in reaching the findings of fact and conclusions of law contained in this order. This order is timely.

II. ALLEGATIONS AND CONCLUSIONS

The Department has jurisdiction to resolve this Complaint under 34 CFR §§ 300.151-153 and OAR 581-015-2030. The Parent allegations and the Department’s conclusions are set out in the chart below. The conclusions are based on the Findings of Fact in Section III and the Discussion in Section IV. This Complaint covers the one-year period from December 22, 2022, to the filing of this Complaint on December 21, 2023.

Allegations	Conclusions
<p>When IEPs Must Be In Effect</p> <p>The Complaint alleged that the District violated the IDEA by failing to implement a bus plan and provide transportation to the Student from October 23, 2023 through December 10, 2023. The Complaint also alleged that, as of October 23, 2023, the District has failed to provide OT consultation services in accordance with the Student’s Individualized Education Program (IEP).</p> <p>(OAR 581-015-2220; 34 CFR §300.323)</p>	<p>Partially Substantiated</p> <p>The District did not implement the Student’s bus plan during this period.</p> <p>The District provided OT consultation services in accordance with the Student’s IEP.</p>
<p>Disciplinary Removals for Children with Disabilities</p> <p>The Complaint alleged that the District violated the IDEA by suspending the Student from the bus for ten days each time there was a bus incident, which caused the Student to miss several days of school. The Complaint also alleged that the required notifications about the bus suspensions and other suspensions from school have not been provided to the Parent.</p> <p>(OAR 581-015-2405, OAR 581-015-2410, OAR 581-015-2415, OAR 581-015-2420; 34 CFR §300.530)</p>	<p>Substantiated</p> <p>The District violated the IDEA by not conducting a manifestation determination review for the Student within ten days of a disciplinary change of placement due to suspension.</p> <p>Notifications were provided for the March and May 2023 bus suspensions, but not for the October 2023 bus suspension.</p>
<p>Least Restrict Environment/Placement of Child</p> <p>The Complaint alleged that the District violated the IDEA because the Student was only able to attend in-person at a special education school for part of the school day, and the rest of the day was virtual learning with the special education case manager. The Student no longer had any access to non-disabled peers.</p> <p>(OAR 581-015-2240, OAR 581-015-2250; 34 CFR §§300.114, 300.116)</p>	<p>Not Substantiated</p> <p>The IEP team appropriately determined the Student’s placement and completed the proper PWN documentation to describe the District’s rationale.</p>
<p>Nonacademic Services</p> <p>The Complaint alleged that the District violated the IDEA by failing to provide the Student with access to breakfasts, and the Student missed a vision screening when the Student received suspensions. The Parent further alleged the Student was not able or invited to any classroom special</p>	<p>Not Substantiated</p> <p>The Student has been afforded appropriate access to supplementary aids and services as listed in the IEP. There is no mention of access to breakfasts in the Student’s IEP.</p>

<p>events (class party, classroom earned rewards) or field trips</p> <p>(OAR 581-015-2070; 34 CFR §300.107)</p>	
<p>Access to Student Education Records</p> <p>The Complaint alleged that the District violated the IDEA by providing some but not all of the documents requested by the Parent prior to an IEP meeting. Further, the Parent alleged that they have requested additional paperwork, and the Parent has not received a response.</p> <p>(OAR 581-015-2300; 34 CFR §300.613)</p>	<p>Not Contested</p> <p>The District did not contest this allegation.</p>
<p>Parent Participation</p> <p>The Complaint alleged that the District violated the IDEA by providing the Notice of Team Meeting for an October 23, 2023, IEP meeting only one day before on October 22, 2023, and did not provide a Notice of Team Meeting prior to a meeting held on December 13, 2023. The Complaint further alleged that the Parent did not receive paperwork from the October 23, 2023, IEP meeting until December 15, 2023. The Parent alleged did not receive the paperwork about the change in placement.</p> <p>(OAR 581-015-2190(1)(2), OAR 581-015-2195(1)(5); 34 CFR §§300.322, 300.501)</p>	<p>Not Contested</p> <p>The District did not contest this allegation.</p>
<p>Notice of Procedural Safeguards</p> <p>The Complaint alleged that the District violated the IDEA by not providing the Parent with the Notice of Procedural Safeguards at the October 23, 2023, IEP and placement meeting.</p> <p>(OAR 581-015-2315; 34 CFR §300.504)</p>	<p>Not Substantiated</p> <p>The District provided the Notice of Procedural Safeguards on two occasions in October 2023.</p>
<p>Prior Written Notice (PWN)</p> <p>The Complaint alleged that the District violated the IDEA when the Parent did not receive PWNs about solutions the Parent offered in the Parent Input Letter provided to the IEP team on October 19, 2023.</p> <p>(OAR 581-015-2310; 34 CFR §300.421)</p>	<p>Not Contested</p> <p>The District did not contest this allegation.</p>

REQUESTED CORRECTIVE ACTION

The Parent requested that the Department order the District to take the following corrective action:

- “The staff on the buses, particularly the special education buses, need to be trained to administer physical restraint. The bus department and School District need to identify procedures on how the paperwork for bus restraints is to be handled, as well as parent notifications and debrief meetings. My Child’s Bus Safety Plan needs to be implemented and followed while [the Student] is on the school bus.”
- “Provide [the Student] access/interactions with non-disabled peers available again.”
- “An appropriate placement for education needs to be determined.”
- “My child needs to be receiving all accommodations and services written in [the Student’s] IEP. [The Student] also needs to be included in all services offered by the District, the same as every other child.”
- “My child needs to be included fully in classroom activities, the same as every other student. [The Student] needs to be receiving a full education and materials, the same as every other student.”
- “There needs to be someone assigned to communicate with me regarding my student, if there is not already. [The School] and [the District] need to respond to attempts of communication regarding a student.”
- “All paperwork procedures need to be followed, especially when there are multiple written requests for the required paperwork.”

III. FINDINGS OF FACT

IDEA regulations limit complaint investigations to alleged violations occurring no more than one year before the Department’s receipt of the special education complaint. This Complaint Investigation did not consider any IDEA violations alleged to have occurred before December 22, 2022. Any facts listed below relating to circumstances or incidents earlier than that date are included solely to provide the context necessary to understand the Student’s disability and special education history.

1. The Student was ten years old and in the fourth grade, attending an elementary school part-time and an ‘alternate school’ part-time at the time the Complaint was filed.
 - a. The School’s learning hours were listed as 8:55 a.m. through 3:25 p.m.; and
 - b. The Alternate School’s learning hours were listed as 8:51 a.m. through 3:40 p.m.
2. The Student was eligible for special education as a child with Other Health Impairment (OHI) and Emotional Behavior Disability (EBD).
3. The Student was described as very social and liked being at school with peers. The Student loves art, writing, group activities, sensory activities, friends, and specials. The Student continued to improve their ability to take a break more independently. The Student was improving their ability to do a “body scan” and identify tools/strategies they could use to stay in class and not take a break in the Red Zone.
4. A document containing 2022-23 Grade Events indicated the following activities:
 - a. “Oct. 31 Halloween Class Party”;
 - b. “Nov. 7 Class President Speeches & Voting”;
 - c. “Dec. 14 Christmas in the West Play”;
 - d. “Dec. 16 Class Christmas Party”;

- e. "Feb. 3 iReady Donut Hole & Hot Cocoa Party";
- f. "Feb. 14 Valentine's Day Party";
- g. "Apr. 7 iReady Root beer Float Party";
- h. "Apr. 17- Apr. 28 Swimming Lessons";
- i. "May 12 Fun Run";
- j. "May 30 City of [City] Field Trip";
- k. "June 7 End of Year Parade";
- l. "June 12 Swim/Park Field Trip"; and
- m. "June 14 Lunch @ Quince Park."

5. The Parent shared with the Complaint Investigator that the Student was included in all activities in the 2022-23 school year. In the 2023-24 school year, the Student missed several class activities at the School. The Alternate School, according to the Parent, did not participate in class parties and field trips.

6. On December 14, 2022, the Student Case Log indicated that a Notice of IEP Meeting and a card that included a link to an electronic copy of the Procedural Safeguards was sent to the Parent in the mail. During interviews with the Complaint Investigator, when asked if they knew the Parent received the Parent Rights Card, the Special Education Teacher shared that during the 2022-23 school year, it was not part of the procedure to document that the Parent Safeguards were provided to the Parent. In general, the Procedural Safeguards were provided with the Notice of Team Meetings when sent out to families.

7. The Student's third-grade report card (2022-23) included scores in the following areas:

- a. "Reading Phonics and Word Recognition - 2 Nearly Meets Standard";
- b. "Fluency-2 Nearly Meets Standard";
- c. "Literature-3 Meets Standard";
- d. "Informational Text-2 Nearly Meets Standard";
- e. "Writing-2 Nearly Meets Standard";
- f. "Language-2 Nearly Meets Standard";
- g. "Vocabulary Acquisition and Use-3 Meets Standard";
- h. "Speaking and Listening-2 Nearly Meets Standard";
- i. "Comprehension and Collaboration-3 Meets Standard";
- j. "Presentation of Knowledge and Ideas-3 Meets Standard";
- k. "Math-2 Nearly Meets Standard";
- l. "Operations and Algebraic Thinking-2 Nearly Meets Standard";
- m. "Number and Operations in Base Ten-2 Nearly Meets Standard";
- n. "Measurement and Data-1 Does Not Meet Standard"; and
- o. "Characteristics of a Successful Learner: Sometimes in all areas except Rarely in Works Independently."

8. A Social Emotional Learning Program Progress Report issued in November, 2022 included:

- a. "Will identify when frustrated and choose appropriate tools; When [the Student] is frustrated [they have] been shutting down. [The Student] lays [their] head down, or [the Student] chooses to stretch out on the floor."
- b. "Follow classroom routines and complete non-preferred tasks. Student is willing to follow classroom routines. [The Student's] schedule is in [the Student's] locker and is reviewed daily. We also review the schedule as a whole group from the posted daily schedule. During less preferred activities, a break is typically requested. After the break, [the Student] is willing to return to the less preferred activity. [The Student] has been completing non-preferred tasks independently 56% of the opportunities provided."

- c. "Will remain safe in the learning environment with self and peers. [The Student] continues to need support making safe choices in [the Student's] environments with peers. [The Student] is successful independently 37% of the time. The remainder of the time, [the Student] needs support and reminders."
 - d. "Writing: [The Student] has been working on organizing [the Student's] thoughts into short 4-sentence paragraphs related to the thematic unit of paleontology."
 - e. "Math: [The Student] has been utilizing IXL and other hands-on math tasks from youcubed [*sic*] to work on math goals. We also utilize math manipulatives and stations to help individualize instruction for [the Student] and others."
 - f. "Reading: [The Student] is a proficient reader showing great understanding when interviewed about the content of the story being read."
 - g. "Overall [the Student] has strong academic skills and strategies to problem solve. [The Student] asks for breaks frequently during academic blocks but is willing to continue making progress when [the Student] returns."
9. On January 5, 2023, the Special Education Teacher emailed the Parent stating there were no IEP changes or paperwork from the January 4, 2023 meeting but wanted to ensure the Parent had a copy of the meeting notes.
10. On February 2, 2023, the Third Grade Teacher emailed the Alternate School staff to ask if they did something for Valentine's Day. The response was that the Alternate School did not plan an event for Valentine's Day. They focused on "friendship and kindness activities that day, but nothing elaborate."
11. On February 28, 2023, an Additional Assessment Report indicated the Parent requested by email to complete the Adaptive Behavior Assessment System (ABAS) testing for the Student. The Student had the testing done initially in August 2021 because "things have changed drastically since that time." The Student needed updated adaptive testing completed for an Intellectual and Developmental Disability (IDD) eligibility determination. The IEP team agreed to complete the assessment. "
- "The evaluation [was] conducted to determine needs for program planning purposes and is not to determine eligibility for Special Education." The Parent rated the Student Very Low in the General Adaptive Composite, the Conceptual Composite, the Social Composite, and the Practical Composite. The Special Education Teacher rated the Student Low in the General Adaptive Composite, Very Low in the Conceptual Composite, Low Average in the Social Composite, and Low in the Practical Composite."
12. On February 28, 2023, a Progress Report for the Student indicated that for the Self-Regulation goal of "Within one instructional year, [the Student] will increase [their] independence by using a tool or strategy to regulate [their] emotions within an appropriate amount of time within the classroom/designated learning space in 75% of observational opportunities with no more than two visual/verbal prompts." The Present Level indicated, "During times of dysregulation, [the Student] will tend to advocate for a break. Although this is a good strategy, taking a break can impact the amount of time [the Student] is missing instruction. [The Student] is independently identifying when [the Student] is frustrated and using an appropriate tool 53% of the time when [the Student's] at [the School]."
13. On February 28, 2023, a Progress Report for the Student indicated that for the Self-Regulation goal of "Within one instructional year, when given two choices within a direction or work task, [the Student] will chose [*sic*] one of the choices and complete the task in 4 out of 5 opportunities as measured by data collection, teacher observations." The Present Level

indicated, "When given two choices for a work task or a direction, [the Student] is able to choose one in 4 out of 5 opportunities. If [the Student] does not like the choices, [the Student] will often groan, verbally protest, or try to take a break. With time and space, [the Student] will eventually make a choice."

14. The IEP Special Factors, dated February 28, 2023, indicated the Student's behavior impeded their learning and the learning of others. The Student needed assistive technology.
15. The IEP dated February 28, 2023 indicated the following goals:
 - a. "Behavior-Within one instructional year, [the Student] will demonstrate safe behavior (safe body and safe voice) throughout the school day 100% of the time as measured by teacher data collection";
 - b. "Within one instructional year, given the accommodation of shortened assignments, [the Student] will demonstrate the ability to follow classroom routines and complete non-preferred tasks in 80% of observational opportunities given no more than 2 visual/verbal prompts"; and
 - c. "Social Skills-Within one instructional year, given specially designed instruction (SDI), [the Student] will choose and utilize a problem-solving strategy when in an unstructured setting during times of peer conflict and, if not successful, will then seek staff assistance within 80% of observational opportunities."
16. The Service Summary for the IEP dated February 28, 2023, indicated:
 - a. Behavior, provided by the Special Education Teacher/Provider, Schoolwide, 90 minutes per week, starting March 1, 2023, through February 27, 2024;
 - b. Social Skills, provided by the Special Education Teacher/Provider, Schoolwide, 30 minutes per week, starting March 1, 2023, through February 27, 2024;
 - c. Self-Regulation, provided by the Special Education Teacher/Provider, Schoolwide, 150 minutes per week, starting March 1, 2023, through February 27, 2024;
 - d. Transportation Services was listed as a Related Service, provided by the Local Educational Agency (LEA), for bus transportation for 45 minutes per day beginning on March 1, 2023 and ending on February 27, 2024;
 - e. Supplementary aids and services were needed, including a behavior support plan, scheduled breaks, access to a known adult during recess, adult support in the classroom, and choices; and
 - f. Supports for School Personnel were listed:
 - i. Occupational Therapist consultation with school personnel for 270 minutes per year, beginning on March 1, 2023 and ending on February 27, 2024.
17. On February 28, 2023, a Special Education Placement Determination indicated, "General education classroom with special education support partial day/Social Emotional Learning program partial day (4 hours at [the School] & 2 hours at [the Alternate School])." The IEP team determined that this placement would meet [the Student's] current behavioral, social-emotional, and self-regulation needs in the least restrictive environment.
18. An Additional Assessment Report, dated February 28, 2023, indicated the Student was given the Adaptive Behavior Assessment System-3rd Edition. The Student scored the following:
 - a. General Adaptive Composite, Special Education Teacher, 72-Low, Parent, 58-Very Low;
 - b. Conceptual Composite, Special Education Teacher, 62-Very Low, Parent, 61-Very Low;

- c. Social Composite, Special Education Teacher, 82-Low Average, Parent, 62-Very Low; and
 - d. Practical Composite, Special Education Teacher, 79-Low, Parent, 60-Very Low.
19. A Specialist Input Form indicated the Student's IEP required Occupational Therapy consultation for 270 minutes a year. The Student presented with "significant sensory processing differences that are impacting [the Student's] attention, planning, participation, and self-regulation in the school setting... [the Student] would benefit from regular, structured sensory breaks throughout [their] day. The use of visual aids (ready/not ready, easy/hard, big deal/little deal) and a visual schedule is recommended when working with [the Student]." During interviews with the Complaint Investigator, the Occupational Therapist shared that they did check-ins at least weekly with the Staff, emailed the Staff, and observed the Student in the Alternative School. The Occupational Therapist stated there was a misunderstanding with the Parent about the type of services provided as the IEP Team determined that consultation was needed for Occupational Therapy.
20. On February 28, 2023, a Prior Written Notice (PWN) indicated the team was proposing to adopt and implement the recently developed IEP. The IEP team met to review the Student's present levels of academic and functional performance and developed a new IEP. The Student's placement remained the same, with the Student attending the School for four hours, accessing general education with special education support, and attending the Alternate School for two hours a day.
21. On March 6, 2023, the Transportation Services Supervisor emailed the Alternate School Principal, letting them know they had to pull the bus over before the bus stop because the Student "threw a fit and was swinging the seat belt buckle and hitting the window. [The Parent] came to get [the Student] along the side of the road. [The Student] ended up hitting both staff members as they took the buckle from [the Student]."
22. On March 7, 2023, the Student; "was suspended from the bus for ten days...transportation...agreed to let [the Student] continue to ride the midday bus so [the Student] can attend [the Alternate School]." A School Bus Referral Form was completed by the referring staff, and the referral described physical aggression and disruption that posed a safety concern for the Student and Staff. The "bus suspension" box was checked, and it was noted that "10" was listed as "# days off" the bus. The Parent was contacted.
23. On March 8, 2023, according to an Alternate School Communication Log, the Special Education Teacher texted the Parent, asking the Parent to review the bus support plan and give feedback. The bus protocol was shared with the Parent, and the Parent did not have any comments.
24. On March 9, 2023, the Special Education Teacher emailed the Transportation Specialist listing a few tools that they could provide for the Transportation Department to use with the Student:
- a. A pop bracelet;
 - b. A weighted lap pad; and
 - c. A card with problem-solving prompts.
25. On March 22, 2023, the Special Education Teacher emailed the Parent and stated that the Special Education Teacher would put the Student's Bus Support Plan in a small box labeled "Student's Bus Break Box" in the Student's backpack.

26. On May 1, 2023, an Extended School Year Consideration Form was filled out, which indicated evidence of regression and documented a limited capacity to recoup in the areas of social and behavioral needs. Extended School Year services (ESY) were scheduled to occur from July 10, 2023 through July 27, 2023.
27. On May 2, 2023, a School Bus Referral Form was completed by referring staff, indicating that the Student engaged in physical aggression that impacted the safety of staff and the Student. It was noted that "10" was listed as the "# of days off" the bus and that the referring staff called the Parent at 1:30 p.m.
28. On May 3, 2023, the Transportation Services Supervisor asked the Alternate School Principal if they had time to watch the video together to see what might have worked better. Due to scheduling issues, the video was subsequently sent to the Alternate School Principal.
29. On May 4, 2023, the Special Education Teacher emailed the Parent, letting the Parent know that work was in the Student's backpack. The Special Education Teacher and the Alternate School Principal followed up with the Transportation Department about the bus protocol. They followed up with the Nurse about keeping the Parent in the loop when the Student reported they didn't feel well.
30. On May 5, 2023, the Transportation Services Supervisor emailed the Special Education Teacher regarding the "Squeezes" Program, a program whereby deep pressure is applied to arms and legs. The Assistant Superintendent stated that the staff at the School and Alternate School would not utilize the Squeezes Program.
31. On May 5, 2023, the Special Education Teacher emailed the Transportation Services Supervisor to suggest that the Behavior Specialist do some "on-the-bus training".
32. On May 8, 2023, after the Student's second bus incident, the Alternate School Principal requested to view the video of the incident with the Behavior Specialists. The Transportation Services Supervisor shared the digital recordings with the school, as they determined that there was a legitimate educational interest. The Transportation Services Supervisor described wanting coaching and support that would work with the Student.
33. On May 15, 2023, the Alternate School Principal shared an updated behavior plan with the Transportation Services Supervisor.
34. On May 16, 2023, the Transportation Services Supervisor emailed the Alternate School Principal, "the bus staff wants to know where [the Student's] behavior plan [is] [sic]." During interviews with the Complaint Investigator, the Parent shared that the bus aide was not aware of the Safety Plan, and the Safety Plan was being sent back and forth for revisions.
35. On May 16, 2023, an updated Bus Protocol listed the following strategies to use on the bus for the Student:
 - a. "Welcome Student with a smile and a name";
 - b. "If [the Student] is having a bad day, view the bus entrance as a fresh start";
 - c. "If [the Student] is verbalizing an emotion, validate them by listening and acknowledging";
 - d. "Give [the Student] pre-warnings for changes";
 - e. "If the bus is not full, have [the Student] take their Sensory bag out of their backpack";
 - f. "Assigned seating when possible with at least one seat between [the Student] and peers";

- g. "The monitor should sometimes sit by [the Student] to reinforce the relationship"; and
 - h. "Provide reminders of bus expectations stated positively."
36. On May 16, 2023, an updated Bus Protocol listed verbal and physical aggression toward adults and peers as behaviors of concern. Triggers included being told no, wait, not today, or being denied access to an activity or item. Adult attention being moved/directed away from the Student was another trigger. Guidance for how to respond to inappropriate behaviors included:
- a. "Use a calm tone and short instructions (2 to 3 words max if possible)";
 - b. "If [the Student] starts to get upset (raised voice, slamming fists, groaning), you can remind [them] that [they have their] sensory tools...";
 - c. "[The Student] does well if you can incorporate the 'why'...";
 - d. "Use Ready/Not Ready statements and problem solve with [the Student]...";
 - e. "Calmly listen to [the Student's] concern and restate [their] concern so [they] know you are hearing [them]...";
 - f. "Redirection stated positively";
 - g. "Use non-verbal directions...";
 - h. "Do not ask open-ended questions..."; and
 - i. "If [the Student] is hitting/kicking":
 - i. "[S]tate clearly, 'no' or 'no, not OK'";
 - ii. "[D]o not use other words";
 - iii. "[A]ttempt to move in the direction you want [the Student] to go..."; and
 - iv. "If not able to exit, deflect and redirect utilizing elbows until you are able to exit safely."
37. On May 30, 2023, the Student attended a field trip with the School.
38. On June 14, 2023, the Special Education Teacher emailed Student Services to share that the Parent was inquiring about the Student's ESY session. The Parent wanted to get the Student in the first morning session. During interviews with the Complaint Investigator, the Special Education Teacher indicated that ESY services were provided for the Student. According to the Special Education Teacher, the Student attended the ESY session for two days and was absent for the remaining days of the program.
39. On June 15, 2023, the Special Education Teacher emailed the Parent a summary of the weekly percentages for the three goals tracked at the School.
40. On June 16, 2023, according to the Alternate School Communication Log, the Special Education Teacher received a message from the Parent that stated the Student would be out the rest of the school year due to a hospitalization due to a reaction to medication.
41. On July 28, 2023, the School District sent a letter to the Parent regarding the request for free and reduced meals. Reduced-rate meals were denied because their total household income was over the allowable amount. During an interview with the Complaint Investigator, the Parent shared that the Student was eating breakfast at home because the Student did not have access to free breakfast at School. The Parent shared that they had not asked for free breakfast. There is no mention of breakfast in the Student's IEP.
42. The Student started the 2023-24 school year a week late. During interviews with the Complaint Investigator, the Special Education Teacher shared that the Student was excited to be back, mostly engaged in tasks, and was socially appropriate. After approximately two weeks in School, the Student began to exhibit avoidance behaviors when asked to complete academic

assignments. The Student also became verbally and physically aggressive. The Special Education Teacher provided individual support for the Student and increased other supports and offered encouragement.

43. Daily rating scales for the Student indicated from September 11, 2023, through October 9, 2023:
 - a. Skill area of Used a Tool to Regulate Emotions ranged from 3-Independent to 0-Constant Support;
 - b. Skill area of Follow Classroom Routines and Finish Shortened Tasks, ranged from 3-Independent to 0-Constant Support;
 - c. Skill area of Will Remain Safe in Learning Environment with Self and Peers ranged from 3-Independent to 0-Constant Support;
 - d. Skill area of Number of Breaks Taken, ranging from 2 to 5 a day; and
 - e. Skill area of the Number of Breaks Out of the Classroom ranged from 5 minutes a day to 20 minutes a day.
44. On September 15, 2023, a Notice of Team Meeting indicated the Parent was invited to attend a meeting to check in regarding the Student and the Alternate School Program on October 10, 2023.
45. On September 21, 2023, the Special Education Teacher emailed the School Principal and the Alternate School Principal, informing them that the Student became physical with multiple staff members. The Student also hit the door with a broom and threw balls at the doors. The Student calmed down and took responsibility but did not process how their actions affected other students.
46. On September 25, 2023, a Physical Restraint/Seclusion Incident Reporting Form indicated the Student was physically restrained for two minutes. The Student refused to leave the classroom, kicked the desk, tried to throw the desk and chairs, and hit and kicked staff. The Parent was contacted at 12:30 p.m.
47. On September 27, 2023, a Physical Restraint/Seclusion Incident Reporting Form indicated the Student was restrained for one minute for an incident of hitting, kicking, yelling, property damage, swearing, pounding, and hitting [their] head for being told that “[they] couldn’t do gymnastics outside of the small room with the mat in the blue zone.” A Meeting Summary for debriefing the restraint/seclusion indicated the team found that the response was done well and there was no need for improvement.
48. An IEP Meeting Attendance and Agenda on September 27, 2023, indicated the meeting was for a restraint/seclusion debrief.
49. On September 28, 2023, the Parent emailed the Special Education Teacher, sharing that the Student’s escalations seem to have turned into much more attention-driven over the last few months.
50. On September 29, 2023, the Special Education Teacher emailed the Alternate School Teacher and the Alternate School Principal and stated: “After hearing how well this Student is doing at [the Alternate School] and how difficult [their] time is at [the School], I am wondering if we could discuss adding more time for [them] at [the Alternate School] during [the Student’s] upcoming check-in meeting?”

51. On October 2, 2023, the Special Education Director emailed the Special Education Teacher to remind them to keep in mind that, when they get close to 10 days of suspension, a manifestation determination meeting needed to be held.
52. On October 2, 2023, the Special Education Teacher emailed the Special Education Director and stated that the strategy of placing no demands on the Student had resulted in a 15-minute seclusion and two separate escalations. The Special Education Teacher asked if the Special Education Director had other ideas.
53. On October 9, 2023, the District Behavior Specialist sent an email to the Special Education Teacher and shared that the staff was providing constant support for the Student and had eliminated all academic demands to keep staff and students safe.
54. On October 10, 2023, a check-in meeting for the Student was scheduled with the following agenda:
 - a. "Introductions";
 - b. "Home Updates";
 - c. "School Updates"; and
 - d. "Alternate School Updates".

This meeting was canceled by the Parent.

55. On October 10, 2023, the Student received an Administrator-Managed (Major) bus referral for physical aggression, defiance, insubordination, and non-compliance which resulted in a 10-day out-of-school suspension. The perceived motivation was listed as "escape/avoid peers." The Student was restrained during the incident, and support was called. "[The Student] was hitting and kicking bus staff and punching a student in the head on the bus; got out of bus [*sic*] and hit [the School] staff, hit the bus, ran out into the road, continued to hit [the School] staff. Police were called for support." During interviews with the Complaint Investigator, the Parent shared that they had not received any paperwork for the 10-day suspension, only verbal notifications.
56. A [School] District Physical Restraint Incident Reporting Form dated October 10, 2023, indicated the Student was "screaming, punching, and kicking on the bus. Attempted interventions were redirections/set limits, directive statements, and student isolation."
57. On October 10, 2023, a School Bus Referral Form indicated the Student received a bus referral for disruption, fighting/physical aggression, and over-defiance/non-compliance. The Student was restrained for 2-3 minutes. The possible motivation was not known. The School Bus Referral Form described the incident and indicated that there was a 10-day bus suspension. The form did not include documentation of communication with the Parent regarding the incident from the bus staff.
58. On October 10, 2023, a Physical Restraint/Seclusion Incident Reporting Form indicated that the Student was physically restrained for ten minutes at the back of the School, outside. Details revealed the Student was "hitting staff who helped get [the Student] off the bus, trying to get back on bus through emergency exit. Chased, hit + kicked staff." The Physical Restraint/Seclusion Incident Debriefing Notes, completed the following day, indicated that "[The Parent] had questions about getting paperwork from transportation about bus incidents + suspensions. [The Parent] would like to hear from transportation about bus restraint. [The Parent] would like details about the incident before [the Parent] gets [the Student]."

59. On October 10, 2023, the Special Education Teacher emailed the Transportation Services Supervisor: "Student is suspended from [the School] for two days including today. Back at school on Thursday [October 12, 2023]." During interviews with the Complaint Investigator, the Special Education Case Manager reported that the suspension was changed to a 10-day suspension after the incident was reviewed by the School Administrator.
60. During interviews with the Complaint Investigator, the Parent shared that after the third suspension on October 10, 2023, the Bus Staff was getting training, but the Parent did not know if the Bus Staff used the Bus Plan.
61. The Daily Attendance Profile listed the Student's suspensions for the 2023-24 school year on the following days:
 - a. 10/10/23, 10/11/23, 10/12/23;
 - b. 10/16/23, 10/17/23, 10/18/23, 10/19/23, 10/20/23; and
 - c. 10/23/23, 10/24/23, 10/25/23, and 10/26/23.
62. On October 11, 2023, a Restraint Debrief Meeting Summary indicated that Procedural Safeguards were mailed to the Parent. In the debrief meeting, the Special Education Teacher reviewed the October 10, 2023 referral incident report, concerning the physical restraint of the Student and the circumstances leading to the police being called. The Parent arrived when the police did and asked whether the police were trained in working with kids with mental health issues. The Parent was concerned that Transportation did not have the bus protocol. The Special Education Teacher indicated they would verify that Transportation completed the required protocol, debriefed the incident, and reviewed the protocol. Additionally, the Special Education Teacher stated the team would conduct a Manifestation Determination Review, and that the IEP paperwork would be finalized and provided to the Parent.
63. On October 11, 2023, the Parent had requested that the transportation department send written documentation of all the Student's bus incidents and had not received anything in writing from them. The Parent felt the transportation department was not following the Bus Safety Plan for the Student. During witness interviews by the Complaint Investigator, the Bus Monitor shared that the afternoon route was not provided with a Safety Plan for the Student.
64. On October 12, 2023, the Parent texted the Special Education Teacher after receiving a notification that the Student's absence for the day was unexcused.
65. On October 12, 2023, the Parent received an invitation from the Special Education Teacher for a Placement/Manifestation meeting to be held on October 23, 2023.
66. On October 13, 2023, a Notice of Team Meeting indicated the reasons for the meeting included placement, a Safety Plan, and a BSP update. During interviews with the Complaint Investigator, the Special Education Teacher indicated the Bus Staff had used the tools the Special Education Teacher had provided during the 2022-23 school year. The Bus Staff used the Behavior Support Plan, and it worked well during the 2022-23 School Year. The Student brought the bag to school each day during the 2022-23 school year.
67. On October 18, 2023, a PWN documented the District's decision to amend the IEP due to rising safety concerns for other students and staff, amend the Student's placement, update the Student's Behavioral Plan, and implement a Student Safety Plan.
68. On October 18, 2023, the Special Education Teacher sent the Parent a text message to invite them to a Placement/Manifestation Meeting scheduled for October 23, 2023.

69. On October 18, 2023, the Special Education Teacher sent an email to the Alternate School Principal asking about the maximum amount of time the Student could attend the Alternate School.
70. On October 19, 2023, the Parent Input and Concerns Document indicated the Parent had not received any documentation regarding the October 10, 2023, incident, which the Parent needed to adequately prepare for the IEP meeting on October 23, 2023. The Parent stated they still had not been given a reason for the change from a two-day to a ten-day suspension.
71. On October 21, 2023, the Parent sent an email to the Special Education Teacher and the IEP Team wanting to know details about a physical restraint of the Student on the bus and whether the person who implemented the restraint was trained.
72. On October 21, 2023, the Parent sent a text to the IEP Team to let them know the Parent received the paperwork for the physical restraint on October 10, 2023 and debrief meeting notes from October 11, 2023. The Parent indicated that they still did not know why the Student's suspension went from two days to ten days.
73. On October 22, 2023, the Special Education Teacher emailed the Parent with three attachments that had been requested by the Parent:
 - a. Meeting notice;
 - b. PWN; and
 - c. Debrief notes.
74. An Individual Safety Plan dated October 23, 2023 and updated on October 27, 2023, included examples of behaviors that might be exhibited when the Student becomes escalated as well as a variety of strategies for staff members to use to calm the Student when these behaviors are present.
75. A Meeting Summary dated October 23, 2023 indicated that Procedural Safeguards were mailed to the Parent along with the Notice of Team Meeting. The Special Education Teacher explained that the Parent asked why the Student was suspended and why the suspension was moved from 2 days to 10 days. The Parent also asked about the physical restraint on the bus and why they had not received the related paperwork within the required 24 hours.

The Special Education Teacher stated that the bus suspension was due to physical aggression against multiple people on the bus. The team reviewed the Behavior Support Plan, and noted that the District had Crisis Prevention Institute (CPI) trained staff working with the Student. At the time of this meeting, the District had documented 13 behavior referral incidents in the 2023-24 school year involving the student.

Changes were made to the Safety Plan language, noting that only "two choices should be given to the student." The team observed that the Student seemed to be avoiding non-preferred tasks. It was also noted that the Parent requested a phone call after incidents and that debriefing should not occur with the Student present.

The team discussed that the Student was more successful at the Alternative School campus. When the Parent asked if the Student could spend the full day there, they were told that the longest time available would be 10:40 a.m. to 3:40 p.m. Meeting notes indicated the Parent did not agree to the proposed schedule, which allowed the Student access to peers and class activities.

76. During interviews with the Complaint Investigator, the Parent clarified that the Parent did not agree with the proposed schedule because the Student had issues getting on the bus to go home. The Parent shared that the typical bus communication included the bus aide calling to let the Parent know what happened. The Parent also shared that the Student had been suspended for ten days, but that all bus suspension notifications were verbal.
77. During interviews with the Complaint Investigator, the Special Education Teacher indicated the Student attended the Alternate School and not the School during bus suspension days.
78. On October 23, 2023, a County Developmental Disability Program Behavior Professional attended the IEP meeting with the Parent. The Behavior Professional provided a written statement about their recollection of the meeting discussion and the notes taken:
“...concerns and updating the safety plan were the objectives I have in my notes. We discussed clarity on the suspension and communication needed from the transportation department. The school team said that a behavior specialist and CPI trainer had been trying to get drivers trained to the transportation safety plan. I reviewed the behavioral strategies for the bus, and I remember stating that they were comprehensive instructions and that some of that information should be in the school safety plan... we had a thorough and productive conversation about the safety plan... [the Parent] stated that virtual learning had never worked during Covid and the youth would not participate.”
- “The principal would not consider any in-person options because the youth would not be accessing academics and because of the safety issues. The only placement option provided to access a full day of school was virtual learning.”
79. During interviews with the Complaint Investigator, the Special Education Teacher indicated the Student was offered virtual learning from 8:50 a.m. to 10:00 a.m. before going to the Alternate School. The program would have included the Student being with the classroom virtually for part of the time, then completing a writing assignment and a check-out with the Special Education Teacher. If the Parent had agreed to the afternoon schedule, the Student could have attended in person when subjects and activities were more appropriate for the Student. According to the Special Education Teacher, the Parent refused the afternoon schedule because of a preferred friend and unspecified concerns about transportation.
80. On October 23, 2023, a Special Education Placement Determination indicated the Social Emotional Learning Program partial day with supported synchronous direct virtual general/special education opportunities provided partial day was chosen. It was a hybrid model, and the Student had access to a full day of instruction and educational services. During interviews with the Complaint Investigator, the Special Education Teacher indicated there was a delay in adjusting the bus transportation schedule. The District was in the process of providing the Parent reimbursement for transportation due to the delays.
81. On October 23, 2023, a PWN indicated a proposal to adopt and implement an amendment to the current IEP. The amendment proposal was made because the Student continued to struggle with self-regulation and its impact on the Student’s ability to access their education with SDI and identified accommodations. The District proposed to amend the Student’s placement, update their behavior support plan, and implement a Student Safety Plan.

82. On October 24, 2023, the Special Education Teacher sent a text to the Parent and shared, "There is no transportation to [the Alternate School] yet; however, due to the lack of placement determination at this time. [sic] I believe the bus home would still be available." During interviews with the Complaint Investigator, the Parent shared that the Student was not suspended from the bus from October 24, 2023 through December 10, 2023. The Parent stated that transportation was listed on the Student's IEP.
83. On October 24, 2023, the Parent sent a text to the IEP Team requesting clarification on who conducted the physical restraint and the "chart data" from the October 23, 2023, meeting. The Parent also requested the Transportation paperwork.
84. On October 24, 2023, the Special Education Teacher sent a text to the Parent and shared, "Since [the Student] doesn't attend [the Alternate School] on Wednesdays, please have [the Student] stay home tomorrow. We will document tomorrow and all following Wednesdays as a suspension until the team can determine an appropriate placement that best meets [the Student's] needs." During an interview with the Complaint Investigator, the Parent shared that they did not receive any suspension paperwork. The notification they received was verbal only. The Parent was told that the Student could only attend the School virtually.
85. On October 25, 2023, the Special Education Teacher emailed the Parent and the IEP Team summarizing the October 23 2023, IEP meeting, including the placement options reviewed at the meeting. At the meeting, the IEP Team was able to update the Behavioral Support Plan, develop and finalize an individual Student Safety Plan, and discuss various placement options for the Student. The Student's behavior has resulted in the other students in their general education classroom being removed from the classroom to ensure their safety five times during the current school year. The IEP Team discussed possible changes to support the Student and increase the safety of other students and staff by:
- "Increased time in the [D]istrict's SEL program [at the Alternative School]"; and
 - "Increased time in the [D]istrict's SEL program [at the Alternative School] 10:45-3:40 pm (1:05 pm on Wednesdays) with virtual, synchronous access to general education from 8:50-10:30 was discussed and offered."
86. On October 25, 2023, the Special Education Teacher documented a phone conversation with the Parent: "Spoke with [the Parent] to plan for [the Student's] re-entry tomorrow and [the Student's] new schedule. I discussed again the option of the afternoon vs [sic] the morning, the cross-over the [sic] student that [the Student] escalated with, and the influences of having students together for the duration of [the Student's] placement. [The Parent] was adamant...the afternoon works better for [the Parent] and [the Parent] would not like to consider switching to the mornings."
87. On October 25, 2023, the Special Education Teacher shared with the IEP Team data from the School that showed the following regarding the Student:
- The Student's overall success in independently using a tool or strategy to regulate their emotions was a 2.4 out of 3 for September and was currently a 1.6 out of 3 for October.
 - The Student's overall success in independently following classroom routines and finishing shortened tasks was 2.4 out of 3 for September and 1.6 out of 3 for October.
 - The Student's overall success with being safe in the learning environment with self and peers was 2.5 out of 3 (7 safe/8 unsafe days) and 1.6 out of 3 (3 safe/3 unsafe days).
 - For the month of October, the Student requested to be out of class for 28% of the 4 hours at the School during the part of the day before lunch and recess. The Student

- has requested to be out of class 35% of the time . When in class, the Student was completing no academic work.
- e. The Student's most successful time at the School was during lunch and recess.
 - f. The Student's least successful time was from 10:16 to 11:15 during core math instruction and math intervention.
 - g. The Student's general education classroom had been cleared due to the Student's behavior five times so far in the school year.
 - h. According to referral data, the Student's most difficult days of the week were Monday, Tuesday, and Thursday. Data showed Friday was their most successful day.
 - i. The Student had 13 major incidents during the school year, with five resulting in significant physical aggression and staff injuries.
88. On October 26, 2023, the Special Education Teacher emailed the School Psychologist, letting them know that the IEP Team never received any documentation of the Student's ASD diagnosis, only the Parent's report that the student had a diagnosis. The School Psychologist replied that the IEP Team needed to decide if an evaluation was appropriate at the time.
89. On October 27, 2023, the Special Education Director sent the Parent a copy of the Meeting Notes for the October 23, 2023 meeting.
90. On October 31, 2023, the Parent sent a text to the Special Education Director stating that it was unclear when the bus physical restraint form was being reviewed and as to who administered the physical restraint. The Parent asked why they did not receive the written documentation for the bus suspension. During interviews with the Complaint Investigator, the Parent shared that they did not feel the Bus Staff were aware that there was a Safety Plan. The Parent indicated the Safety Plan was put into place after the first suspension to prevent further suspensions.
91. On October 31, 2023, the Speech Language Pathologist (SLP) emailed the Alternate School Principal inquired about assistance in scheduling a screening time, with agreement from the Parent.
92. A Social and Emotional Learning Program Progress Report for October 2023-24 stated that for Goal 1, the Student would identify when they were frustrated and choose appropriate tools. The Student had shown the ability to meet this goal 61% of the time without adult support. It was down from 94% in September. Another goal was "to follow classroom routines and complete non-preferred activities/tools." The Student could meet the goal 64% of the time without adult support. A third goal was to "remain safe in the learning environment with self, staff, and peers." "The student has shown the ability to meet the goal 71% of the time." In math, the Student practiced skills in IXL at the 270 level. In English Language Arts, the Student worked at the fourth-grade level with vocabulary and described the difference between related words.
93. On November 3, 2023, the Parent sent a text to the Special Education Teacher asking how the Student could attend the vision screening on November 8, 2023, when the Student was not allowed in the building.
94. On November 3, 2023, the Alternate School Principal sent a message to staff and copied the Parent with an updated safety plan for the Student. The update included responses for Level 1 and Level 2 in response to the previous incident.

95. On November 6, 2023, the Parent sent a text to the Special Education Teacher and expressed a desire to set up a vision screening for the Student.
96. On November 7, 2023, the School Nurse sent an email to the Special Education Teacher, sharing that they would email the Parent about a make-up vision screening.
97. On November 9, 2023, the Alternate School Principal sent an email to the Special Education Teacher, sharing that the safety plan was updated to include blocking external exits when the level is yellow or red. The Parent approved the change.
98. On November 17, 2023, a Speech-Language Screening Report indicated, "Some speech errors were noted; however, they do not impact your child's academic performance, and intervention through the school system is not warranted at this time" for articulation. For language, "Rate and rhythm are judged to be within normal limits...Student's speech and language skills appear to be within normal limits, and/or they do not impact your child's academic performance. Further testing and/or intervention is not recommended at this time."
99. On November 28, 2023, the Parent sent a text to the Special Education Teacher asking if the Student could attend the School virtually in the mornings and keep the current Alternate School schedule of 10:45 a.m. - 3:40 p.m. The Parent also requested a bus be arranged to pick up the Student from home and drop the Student off at the Alternate School at 10:45 a.m.
100. On November 28, 2023, the Special Education Teacher sent a text to the Parent and stated that the Special Education Teacher reached out to the School Nurse to schedule a vision screening within the next two weeks.
101. On November 30, 2023, the Special Education Teacher sent a text to the Parent regarding a meeting on December 5, 2023 for an Alternate School check-in meeting. The Special Education Teacher stated they were working on setting up transportation from the Student's home to the Alternate School. The Special Education Teacher stated they would help the Transportation Department update the restraint incident paperwork for the Parent to reflect the incident with more details.
102. On November 30, 2023, the Special Education Director sent an email to the Special Education Teacher asking if there had been "Any luck with getting the paperwork from transpo [sic]?"
103. On December 4, 2023, the Special Education Teacher acknowledged the Parent's request on November 28, 2023 to have the Student attend the School virtually before the Student goes to the Alternate School and that the team submitted transportation information. The Special Education Teacher informed the Parent that the team would like to start virtual access at the School for the safety of the Student and the staff. The team attempted to schedule a follow-up placement meeting for December 5, 2023, but the date and time did not work for the Parent. The placement meeting was rescheduled for December 13, 2023, and the Parent was informed.
104. On December 4, 2023, the Parent emailed the District to let them know they had received the incorrect Speech/Language report in the mail.
105. On December 4, 2023, the Special Education Teacher texted the Parent, sharing that while the IEP Team had attempted to schedule a follow-up placement meeting for December 5, 2023, this was not possible, and the meeting was scheduled for December 13, 2023.

106. On December 4, 2023, the School Principal sent an email to the Technology Department, letting them know the Student needed a Chromebook.
107. On December 5, 2023, the Social Emotional Learning Specialist sent an email to the Parent, letting them know that the Student was receiving sensory breaks. The Student liked to use the bouncy feet on the chairs. There was also a visual timer for the Student in the classroom. The Student received visual cues and used a visual schedule.
108. On December 6, 2023, the Care Coordination Notes indicated the Student had shown success with productive struggle in the last week where the Student asked for breaks appropriately and the Student followed their plan when the Student became frustrated.
109. On December 7, 2023, the Special Education Teacher sent a text to the Parent, stating the Student had not logged on to [their] virtual time at the current School for the previous three days. The Special Education Teacher asked if the School team could assist and if there were technological issues.
110. On December 7, 2023, the Social Emotional Learning Specialist sent an email to the Special Education Teacher that the Student had flexible seating in class to align with their IEP. The Student had also been using the IXL program to access math. The Social Emotional Learning Specialist stated they had been collaborating to make sure the Student's social emotional needs were met as well as their academic needs.
111. On December 11, 2023, the Parent sent a text to the Special Education Teacher regarding a statement made at the IEP meeting on October 23, 2023 that the Student was not willing to participate in virtual learning in any way. The Parent stated they had agreed to virtual learning on November 28, 2023, as the Student needed transportation to school and the Student was not given that transportation until the Parent agreed to virtual learning. The Parent felt the District should reimburse them for gas and mileage.
112. On December 11, 2023, the Parent sent a text to the Alternate School Principal, stating the Student had transportation to school.
113. On December 11, 2023, the Alternate School Principal sent an email to the Parent to explain that "all Alternative School check in meetings are also placement meetings because they are discussing the progress of the Student and if there needs to be any changes in placement to continue to best meet the Student's needs while also working towards the Student's least restrictive environment."
114. On December 11, 2023, the Special Education Teacher sent an email to the Special Education Director and the IEP Team to let them know the Student had not logged in to virtual class any day so far.
115. On December 12, 2023, the Parent sent a text to the Special Education Teacher asking if the Student had been seeing the Occupational Therapist at the Alternate School and if the vision screening had been completed.
116. On December 12, 2023, the Special Education Director sent a text to the Parent and the IEP Team, letting the Parent know the District would reimburse the Parent for transportation during the time the Parent took the Student to the Alternate School and would continue to do so until the transportation became available.

117. On December 12, 2023, the Special Education Director sent a text to the Parent that the December 13, 2023, meeting would be kept as an Alternate School meeting. Placement could be discussed, but the IEP Team would not make official placement decisions since the purpose of the meeting was not clear. The IEP Team would schedule an IEP meeting to discuss placement in January.
118. A 2023-24 Daily Attendance Profile indicated the Student was absent for 11 days between October 10, 2023 and December 12, 2023.
119. On December 14, 2023, the Special Education Teacher summarized the meeting from the previous day regarding clarifying the Student's virtual schedule and wanting to help the Student log in since the Parent shared the Student never wanted to log in. The Special Education Teacher also included a new virtual schedule without writing so the Student would have time to catch the bus.
120. On December 14, 2023, the Occupational Therapist wrote to the Alternate School Principal stating they would like to check in on the Student to find out if there were any OT supports that they could offer the staff.
121. From March 2, 2023 through December 14, 2023, the Occupational Therapist noted the dates they provided occupational therapy consultation.
122. On December 15, 2023, the Parent sent a text to the Special Education Director with the completed Transportation Reimbursement form.
123. On December 15, 2023, the Alternate School Principal sent a text to the Parent to let them know the nurse screened the Student for vision. According to the Nurse, the Student had been screened twice during the school year. The Principal offered the Parent a copy of the Vision Report.
124. On December 15, 2023, a Special Education Student Contact Log indicated the Special Education Teacher dropped off hard copies of referrals/suspension information and IEP documents as requested by the Parent during the check-in meeting on December 13, 2023. Also included was a Notice of Team Meeting scheduled for placement discussion on January 1, 2024.
125. On December 15, 2023, the Special Education Director emailed the Parent to let them know that they had dropped off all the requested paperwork at the Alternate School and they had included the transportation reimbursement form.
126. On December 15, 2023, a Student Working File Information Sheet indicated the Parent was emailed to let them know the vision screening was completed for the Student.
127. According to School Wide Information System (SWIS) Report Data for the 2023-24 School Year, the Student received 13 Administrator-Managed (Major) referrals and 0 Staff Managed (Minor) referrals. On October 10, 2023, the Student received an out-of-school suspension for ten days.
128. On December 20, 2023, the Parent sent a text to the Special Education Teacher and the Special Education Director containing an updated Parent Input and Concerns Document to be included in the Student's IEP. The Parent shared they were waiting for the PWN related

to requested solutions the Parent had proposed in the October 19, 2023 Parent Input and Concerns Document. The Parent also requested a PWN related to their proposals in the updated Parent Input and Concerns Document.

129. On December 20, 2023, Parent Input and Concerns for the Student were:

- a. "Emotion control and regulation (for all emotions)...";
- b. "Has trouble talking through problems and seeing other people's point of view";
- c. "Being able to identify and understand what [their] triggers are and vocalize what [they] are feeling or needing";
- d. "Has a difficult time with transitions and changes in routine";
- e. "Not understanding social cues or appropriate social behavior";
- f. "Unable to sit still and/or not talk at inappropriate times";
- g. "Difficulty focusing on lessons or retaining information and has a hard time completing classwork alone";
- h. "Needs extra time to complete classwork and/or shortened assignments";
- i. "Behind on multiple subjects as [the Student] misses several due to changing schools. No Social Studies, Science, or Health in third grade and so far in fourth grade. No math in third grade, and possibly no Reading in fourth grade";
- j. "Has trouble with speech and has stuttering, unable to be understood sometimes (which can be very frustrating for [them] and lead to escalations)";
- k. "Reliable transportation to provide [the Student] access to [their] FAPE, as during suspensions from the bus department [they are] unable to attend part or all of [their] schooltime. The bus safety plan also needs to be implemented and followed by the transportation staff";
- l. "[The Student] no longer has access to non-disabled peers while attending school";
- m. "[The Student] has not been fully included in [their] classroom at [the School] this school year. [They have] not been able to participate in classroom activities such as class parties, field trips, and classroom rewards. [The Student] has also not been receiving all of [their] educational materials such as the monthly Reading Log and Reading Assignments"; and
- n. "Virtual learning is not an acceptable placement for [the Student] as [they are] unwilling to participate in it."

130. On December 21, 2023, the Parent filed this Complaint.

131. On December 28, 2023, the Special Education Director sent a text to the Parent, sharing that as soon as school is back in session, the IEP Team will reach out to schedule an IEP meeting to address all Parent concerns that might not fall under evaluation or placement.

132. On January 24, 2024, during interviews with the Complaint Investigator, the Special Education Teacher indicated that the District had a general education option of an Online Program for students. The Special Education Teacher shared that, when considering a placement option for a student in the District, if the student is less than 40% in general education, the virtual school option was not considered Homebound Instruction.

133. On January 24, 2024, during interviews with the Complaint Investigator, the Alternate School Teacher shared that the program is for students with disabilities and gives academic support in coordination with the Special Education Teacher from the School. General education materials from the School were used in the program. When asked what general education non-academic and extracurricular activities the Student participated in, the Alternate School Teacher indicated the Student participated in arts and crafts as an elective, recess, and in the school's two celebration days, but that no clubs or sports were offered in the program

Some students without disabilities attend the Alternate School, so there may have been grade-level peers participating with the Student. The Alternate School Teacher stated that all accommodations listed in the IEP were followed.

134. On January 24, 2024, during interviews with the Complaint Investigator, when asked what general education non-academic and extracurricular activities the Student participated in at the School, the Special Education Teacher shared that during the 2022-23 school year, the Student participated in PE, the Christmas musical, and swimming. During the 2023-24 school year, the Student participated in PE and attended lunch recess. No special events had yet occurred during the school year.
135. On January 24, 2024, the Special Education Teacher was interviewed by the Complaint Investigator. When asked why the suspension changed from two days to ten days on October 23, 2023, the Special Education Teacher responded that a principal was not in the building when the two-day suspension decision was made. When the Principal returned, the event was reassessed, and it was determined a lengthier suspension was appropriate due to the severity of the event.
136. The Bus Supervisor was interviewed on January 24, 2024, by the Complaint Investigator. The Bus Supervisor was not able to answer questions about the Student's bus safety plan. The Bus Supervisor shared that they used Board Policy to make decisions, and the bus company did not notify the Parent but mailed the referrals about the suspensions.
137. During interviews with the Complaint Investigator on January 24, 2024, the Special Education Teacher shared that a full-day program was always the option considered by the IEP Team. The IEP Team did not discuss any abbreviated school day options, and the IEP Team followed up many times about the virtual option. The Parent considered the virtual option as a modified schedule. The Special Education Teacher reported that the Student's academic and safety needs outweighed their being in general education in person in the morning.
138. On January 24, 2024, during interviews with the Complaint Investigator, the Bus Monitor shared that they were using common sense approaches since they were not provided a Bus Safety Plan during the current school year. The Bus Monitor shared that they had de-escalation training and CPI training this school year after the incident on the Bus. For the two bus suspensions that occurred during the 2022-23 school year, the Bus Monitor called the Parent to tell them of the bus suspensions.
139. During interviews with the Complaint Investigator, the Regular Bus Driver shared that they had never been given a copy of the Bus Safety Plan for the Student. The Regular Bus Driver stated that they were given training after the bus incident this year with the Student. The Regular Bus Driver shared that there were Bus Protocol Sheets with warnings and reminders used with Students. Violence was an automatic suspension.
140. On January 24, 2024, during interviews with the Complaint Investigator, the Special Education Teacher was asked about the reasons a Manifestation Determination Review was not conducted. The Special Education Teacher shared that at the time, the Student was at ten days of suspension. If more suspensions had occurred, the team would have conducted a Manifestation Determination Review.

The Special Education Teacher shared the Student was suspended from the bus for ten days starting on March 8, 2023. The Student did not attend the general education program that

occurred for two hours during the day. The Student missed school one day during that time period. For the second bus suspension, the Student was suspended from the bus for ten days starting on May 23, 2023. For the third ten-day bus suspension that started on October 24, 2024, the Special Education Teacher shared that the school suspension was from 8:50 a.m. through 12:50 p.m. (4 hours). According to the Special Education Teacher, the District did not believe the Student was at ten days of suspension because they were counting hour for hour, and thought they were at 5-6 days.

141. On January 24, 2024, during interviews with the Complaint Investigator, when asked if the Student was marked present on the days the Student did not attend school because the Parent/Student was not accessing the virtual instruction, the Special Education shared the following attendance information:

- a. Bus suspension 1 - March 8, 2023, through March 22, 2023, absent one day, tardy 8 to 10 days;
- b. Bus suspension 2 - May 3, 2023, through May 17, 2023, absent one half day and tardy on May 8, 2023; and
- c. Bus suspension 3 - October 10, 2023, through October 23, 2023, absent two days.

IV. DISCUSSION

When IEPs Must Be In Effect

The Parent alleged that the District violated the IDEA by failing to implement a bus plan for the Student. The Complaint also alleged that as of October 23, 2023, the District failed to provide OT consultation services in accordance with the Student's IEP.

School districts must provide special education and related services to a child with a disability in accordance with an IEP. As soon as possible following the development of the IEP, special education, and related services must be made available to the child in accordance with the child's IEP. Each school district must ensure that the IEP is accessible to each regular education teacher, special education teacher, related service provider, and other service providers who are responsible for its implementation, and inform each teacher and service provider of their specific responsibilities for implementing the child's IEP and the specific accommodations, modifications, and supports that must be provided for or on behalf of the child in accordance with the IEP.³

The February 2023 IEP described the Student's needs and goals for behavior, social skills, and self-regulation. The Student's behavior was identified as a significant factor that impeded their learning and that of others. In March and May of 2023, the Student was physically aggressive and disruptive on the bus, which resulted in a 10-day bus suspension for each of the March and May 2023 incidents. In March and May of 2023, a bus plan was drafted, shared with the Parent, shared with the Transportation Department, and placed in the Student's backpack. After the second bus incident, the Special Education teacher recommended "on-the-bus training" for bus staff as a training and support measure for those supervising the Student. In October of 2023, the Student engaged in physical aggression, defiance, and non-compliant behavior on the bus, which resulted in a call to the Police Department and a two-day suspension that was later changed to a 10-day out-of-school suspension.

³ OAR 581-015-2220

Bus safety arose as a concern for the Student in March of 2023 yet, while the school team drafted a protocol to ensure the safety of the Student and others on the bus, the bus staff indicated they were not provided the specific plan, nor were they trained on how to implement it. Bus personnel described receiving CPI training after the October 2023 incident.

The February 2023 IEP outlined that transportation-related services were to be provided daily for 45 minutes until February 2024. However, on October 10, 2023, the Student faced a 10-day suspension due to behavioral concerns on the bus, spanning from October 10, 2023 to October 23, 2023. An IEP meeting convened on October 23, 2023, to address the Student's conduct, physical restraint, and overall programming. Throughout October 2023 and November 2023, ongoing discussions between the District and the Parent occurred regarding the Student's programming and placement. District communication revealed that, as of November 30, 2023, efforts were still underway to address transportation concerns.

The Parent confirmed that bus transportation resumed on December 11, 2023. After transportation was secured, the Parent requested to be reimbursed for gas and mileage for the time transportation was not provided and subsequently completed the reimbursement documentation. From October 24, 2023, to December 10, 2023, transportation services were not provided to the Student. Although the District committed to reimbursing the Parent for the expenses incurred during the period when transportation was unavailable, that does not relieve the District of its obligation to adhere to the Student's IEP and the documented transportation services.

The February 2023 IEP indicated that the Occupational Therapist would provide consultation with school personnel as a related service for 270 minutes per year. Service logs from the Occupational Therapist indicated the dates that consultation was provided. The Occupational Therapist's consultation was scheduled to begin in March of 2023 and end in February of 2024. At the time the Complaint was filed, there was additional time left in the school year to provide the consultation services required to meet the obligations set forth by the IEP. The Occupational Therapist indicated during interviews that they were on track to meet the required services minutes.

The Department partially substantiates this allegation, as it relates to implementation of a bus safety plan. The Department does not substantiate the portion of the allegation related to provision of Occupational Therapy consultation on behalf of the Student.

Disciplinary Removals for Children with Disabilities

The Parent alleged that the District violated the IDEA by suspending the Student from the bus for ten days each time there was a bus incident, which caused the Student to miss several days of school. The Parent also alleged that the required notifications about the bus suspensions and other suspensions from school have not been provided to the Parent.

School districts may remove a child with a disability who violates a code of student conduct from the child's current educational placement to an appropriate interim alternative educational setting, another setting, or suspension for up to ten school days in a school year to the same extent, and with the same notice, as for children without disabilities. Removals of less than 10 days are not considered a change in placement, and school districts are not required to

determine whether the child's behavior resulting in that removal is a manifestation of the student's disability. During such disciplinary removals, school districts are not required to provide access to special education and the general curriculum unless students without disabilities are provided access when similarly removed. For the purpose of counting days of suspensions to ensure that a manifestation determination review occurs within 10 days of a disciplinary change of placement, suspensions of a half day or less are counted as a half day, and suspensions of more than a half day are counted as a whole day.⁴

School personnel must also determine, on a case-by-case basis, whether the series of removals constitute a pattern because the child's behavior is substantially similar to the child's behavior in previous incidents that resulted in removals and because of such additional factors as the length of each removal, the total amount of time the child has been removed, and the proximity of removals to one another. During removals, school districts must provide services that are necessary to enable the child to continue to participate in the general education curriculum, although in another setting, and to progress toward meeting the goals in the child's IEP. School personnel, in consultation with at least one of the child's teachers, determine the extent to which the services are needed and the location for delivery of those services. School districts are required to determine whether the behavior resulting in removal is a manifestation of the child's disability within 10 days of any decision to impose a series of removals that constitutes a pattern and, therefore, results in a disciplinary change in placement.⁵

If a disciplinary removal, or a cumulative pattern of removals, from a child's current educational placement will be for more than 10 school days in a school year, it is considered a change in educational placement, and the school district must follow special education due process procedures. School personnel may consider any unique circumstances on a case-by-case basis when determining whether to order a disciplinary removal for a child with a disability who violates a code of conduct. Within ten school days of any decision to change the placement of a child with a disability because of a violation of a code of student conduct, the school district must determine whether the child's behavior is a manifestation of the student's disability.⁶

If the determination is that the child's behavior is a manifestation of the child's disability, the school district must return the child to the placement from which the child was removed unless the parent and school district agree to a change of placement as part of the modification of the behavior intervention plan, or if the school district removes the child to an interim alternative educational setting for a weapons or drug violation or for infliction of serious bodily injury and if the school district obtains an order from an administrative law judge allowing a change in placement to an interim alternative educational setting for injurious behavior. In addition, the district is required to conduct a functional behavioral assessment, unless the school district conducted a functional behavioral assessment before the behavior occurred that prompted the disciplinary action, and implement a behavior intervention plan, or if the student already has a behavior plan, review the behavioral intervention plan and modify it, as necessary, to address the behavior.⁷

If the determination is that the child's behavior is not a manifestation of the child's disability, the school district may proceed with disciplinary action applicable to children without disabilities in

⁴ OAR 581-015-2410(1)

⁵ OAR 581-015-2410(2)(3)

⁶ OAR 581-015-2415(1-3)

⁷ OAR 581-015-2415(4)

the same manner and for the same duration in which the procedures would be applied to children without disabilities. If the school district takes such action as applicable to all children, the school district must, on the date on which the decision is made to remove the student, notify the parents of that decision and provide the parents with notice of procedural safeguards, provide services to the student in an interim alternative educational setting, determined by the IEP team, and provide, as appropriate, a functional behavioral assessment, and behavior intervention services and modifications that are designed to address the behavior violation so that it does not recur.⁸

During the 2022-23 school year, the Student's first 10-day suspension from the bus occurred in March of 2023. The Parent was contacted, and the suspension of the Student from the bus resulted in one full day of school absence and ten half-days of school absences, equating to a total of 6.5 absences from School. The second 10-day suspension from the bus occurred in May of 2023. The Parent was contacted, and one full-day school absence was noted, along with a number of tardies. During the 2022-23 school year, the bus suspensions resulted in a total of 7.5 days of absences from school. It is unclear from the record the total number of times the Student was denied access to part of a school day due to the bus suspension, which the District recorded as tardies, but those partial day removals also constitute a suspension as they resulted from the District's action to deny the Student access to their required transportation as a related service.

During the 2023-24 school year, a 10-day out-of-school suspension and a 10-day suspension from the bus occurred simultaneously in October of 2023. The out-of-school suspension resulted in the Student not attending the School during the suspension period. The Student was allowed to attend the Alternate School during the 10 day out-of-school suspension, but not ride the bus. The Parent provided some of the transportation to the Alternate School but the Student missed at least 4 out of 5.5 hours of instruction at the Alternate School on the days the Student was suspended. The Student's attendance records for the 2023-24 school year indicated the Student was suspended out-of-school for a total of 12 days.

The February 28, 2023 IEP indicated that the Student would be removed from the general education setting for 270 minutes per week, which amounted to roughly one hour per day to receive SDI. The rest of the Student's day was in the general education setting. The February 2023 IEP was in place during the October 2023 bus incident. The Student's school day was scheduled from 8:55 a.m. to 3:40 p.m., with the first four hours at the School and the last 2 hours and 40 minutes at the Alternate School. According to the District, the suspension resulting from the Student's conduct prevented the Student's access to the general education setting for four hours each day for a total of 12 days, while the Student retained access to the Alternate School for two hours and 40 minutes on those days.

The suspension of the Student for four hours each day amounted to a total 12-day suspension. The District was obligated to conduct a manifestation determination review by the 10th day of suspension to determine if the Student's conduct was a manifestation of their disability. This meeting was not conducted. Additionally, the Parent did not receive information regarding the October 10, 2023 bus incident from the bus staff, deviating from the standard communication protocol for other bus-related incidents.

⁸ OAR 581-015-2415(5)

The Department substantiates this allegation.

Least Restrictive Environment/Placement of the Child

The Parent alleged that the District violated the IDEA because the Student was only able to attend in-person at a special education school for part of the school day, and the rest of the day was virtual learning with the special education case manager. The Student no longer had access to non-disabled peers.

School districts must ensure that to the maximum extent appropriate, children with disabilities, including children in public or private institutions or other care facilities, are educated with children who do not have a disability and that education in special classes, separate schooling, or other removals of children with disabilities from the regular educational environment occurs only if the nature or severity of the disability is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily.⁹

School districts must ensure that the educational placement of a child with a disability is determined by a group of persons, including the parents and other persons knowledgeable about the child, the meaning of the evaluation data, and the placement options. Placement decisions must be made in conformity with the Least Restrictive Environment (LRE) provisions, be based on the child's current IEP, be as close as possible to the child's home, and be determined at least once every 365 days. Each school district must ensure that they develop and maintain a continuum of alternative placements to the extent necessary to enable the provision of FAPE for each child with a disability. Unless the child's IEP requires some other arrangement, the child must be educated in the school that they would attend if not disabled. In selecting the LRE, consideration is given to any potentially harmful effect on the child or on the quality of services that will be provided to or on behalf of the child. A child with a disability may not be removed from education in age-appropriate regular classrooms solely because of needed modifications in the general curriculum.¹⁰

The February 2023 IEP described the Student's primary placement as the general education classroom, with the remaining time allocated to the Alternate School. In September and October of 2023, the Student became physically aggressive with students and staff and required restraint or seclusion on several occasions. Subsequent to these incidents, staff support for the Student was increased. The October 10, 2023 bus incident occurred, and a meeting was scheduled to discuss placement, a safety plan, and a behavior support plan update. On October 23, 2023, there was an IEP meeting to discuss several items, including the Student's placement. An amendment was drafted that described the selected placement for the Student that included participation in the regular education classroom less than 40% of the time. Lesser restrictive options were considered and rejected. The Parent did not agree to this placement, which described a synchronous virtual option at the School and a longer in-person day at the Alternate School. The District provided a PWN that described the rationale for selecting the virtual and in-person placement option.

In response to the Parent's request for a full day of instruction at the Alternate School, the District offered a time frame from 10:40 a.m. to 3:40 p.m. Despite the Parent's disagreement

⁹ OAR 581-015-2240

¹⁰ OAR 581-015-2250

with several proposed options, the expressed concerns were not based on or related to the Student's disability. Through the consideration of the IEP team, the District determined the Student's LRE and provided the Parent with PWN documenting the District's rationale for the selected placement. The District complied with its obligation to determine the Student's LRE and to provide notice to the Parent regarding the least restrictive placement for the Student.

The Department does not substantiate this allegation.

Nonacademic Services

The Parent alleged that the District violated the IDEA by failing to provide the Student with access to breakfasts, and when the Student missed a vision screening due to suspensions the Student received. The Parent further alleged the Student had not been able to attend, or invited to, any classroom special events (e.g., class party, classroom earned rewards) or field trips.

School districts must take steps, including the provision of supplementary aids and services determined appropriate and necessary by the child's IEP team, to provide nonacademic and extracurricular services and activities in a manner to afford children with disabilities an equal opportunity for participation in those services and activities. Nonacademic and extracurricular services and activities may include meals, recess periods, counseling services, athletics, transportation, health services, recreational activities, special interest groups or clubs sponsored by the school district, referrals to agencies that provide assistance to individuals with disabilities, and employment of students, including both employment by the school district and assistance in making outside employment available.¹¹

The Parent requested that the District provide free or reduced meals to the Student in July of 2023. According to the Parent, that request was denied because their household income exceeded the allowable amount. The Parent acknowledged that they did not ask for free breakfast during the school year following the District's denial of the request made in July. The Parent requested a visual screening on November 6, 2023. The District notified the Parent that the screening was completed by December 15, 2023. The Parent indicated that the Student participated in school activities during the 2022-23 school year and that they had missed some during the 2023-24 school year. The District shared that the Student participated in PE and recess during lunch during the 2023-24 school year. No special events had occurred yet during the 2023-24 school year.

The February 2023 IEP included the provision of supplementary aids and services. Free breakfast was not requested during the 2023-24 school year and the Student's IEP did not include the provision of free breakfast as an accommodation. A visual screening was scheduled and completed for the Student. The Student had access to recess during lunch and PE with their peers, but had not participated in other special school activities as none had been scheduled. The opportunities afforded the Student were comparable to those offered to students without disabilities.

The Department does not substantiate this allegation.

Access To Educational Records

¹¹ OAR 581-015-2070

The Parent alleged that the District violated the IDEA by providing some, but not all, of the documents requested by the Parent prior to an IEP meeting. Further, the Parent alleged that they have requested additional paperwork, and the Parent has not received a response.

The District did not contest this allegation and acknowledged that it failed to provide the Parent with documents related to the October 23, 2023 IEP meeting. The District noted that it had already made arrangements for staff training and monitoring to ensure that required documentation will subsequently be provided in a timely manner. The District provided the Parent with all requested and required documentation as of December 15, 2023.

Since the District did not contest this allegation, the Department did not investigate the allegation.

Parent Participation

The Parent alleged that the District violated the IDEA by providing the Notice of Team Meeting for an October 23, 2023, IEP meeting on October 22, 2023, and not providing a Notice of Team Meeting prior to a meeting held on December 13, 2023. The Parent further alleged that the Parent did not receive paperwork from the October 23, 2023, IEP and placement meeting until December 15, 2023.

The District did not contest this allegation and acknowledged that it failed to provide a Notice of Team Meeting prior to the October 23, 2023 meeting. It also acknowledged that it did not provide a Notice of Team Meeting for the December 13, 2023 meeting. The District asserted that the meeting was scheduled as a “step-up check-in meeting,” as is the District’s practice when Students are not attending a full day of school, even when the Student is offered a full day of school, as was the case in this matter. Such meetings generally always included a discussion about placement. Since the IEP team realized a Notice of Team Meeting had not been provided before the meeting, it determined it would not discuss placement or amend the IEP at that meeting. Instead, the IEP team scheduled an IEP meeting for January 10, 2024. The Parent was in agreement with this plan.

Since the District did not contest this allegation, the Department did not investigate the allegation.

Notice of Procedural Safeguards

The Parent alleged that the District violated the IDEA when it failed to provide the Parent with the Notice of Procedural Safeguards at the October 23, 2023, IEP and placement meeting.

School districts must give parents a copy of the Notice of Procedural Safeguards at least once per year, except that a copy must be given to the parents upon initial referral or parent request for evaluation, upon receipt of the first State complaint and/or due process complaint in a school year, in accordance with the IDEA’s discipline requirements, and upon request by a parent. The Notice of Procedural Safeguards must also be provided to the child, at least a year before the child’s 18th birthday. The procedural safeguards notice must include all of the content provided in the Notice of Procedural Safeguards published by the Department in the following areas:

independent educational evaluations; prior written notice; parental consent; access to educational records; mediation, complaints and due process hearings; the child’s placement during pendency of due process proceedings; procedures for students who are subject to placement in an interim alternative educational setting; civil actions, including the time period for filing such actions; attorney’s fees; and transfer of rights at the age of majority. The Notice of Procedural Safeguards must be written in language understandable to the general public and provided in the native language of the parent or other mode of communication used by the parent, unless it is clearly not feasible to do so.¹²

A copy of the Notice of Procedural Safeguards was mailed to the Parent on both October 11, 2023 and October 23, 2023, meeting the District’s obligation to provide them annually. There is no evidence that the Parent requested the Notice of Procedural Safeguards at other times.

The Department does not substantiate this allegation.

Prior Written Notice (PWN)

The Parent alleged that the District violated the IDEA when the Parent did not receive PWNs about solutions the Parent offered in the Parent Input Letter provided to the IEP team on October 19, 2023.

The District did not contest this allegation and acknowledged that it did not send the Parent a timely PWN following the October 23, 2023, IEP meeting.

Since the District did not contest this allegation, the Department did not investigate the allegation.

V. CORRECTIVE ACTION¹³
In the Matter of Redmond 2J School District
Case No. 023-054-050

Based on the facts provided, the following corrective action is ordered:

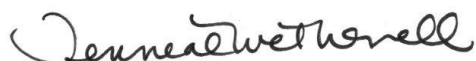
Action Required	Submissions	Due As Soon As Possible But Not Later Than
1. The District must provide bus staff with the Student’s bus safety plan and provide training for implementation of the plan.	The District shall submit the following: Proof that bus staff has been provided with the Student’s Safety Plan	March 15, 2024

¹² OAR 581-015-2315

¹³ The Department’s order shall include any necessary corrective action as well as documentation to ensure that the corrective action has been completed (OAR 581-015-2030(13)). The Department expects and requires that corrective action be completed as required in the Order, as soon as possible, and that it is timely completed in all cases. The Department will verify that the corrective action has been completed as specified in any final order (OAR 581-015-2030(15)). The Department may initiate remedies against a party who refuses to voluntarily comply with a plan of correction (OAR 581-015-2030(17) & (18)).

	and that training was conducted for implementation of the Safety Plan.	
2. The District must reimburse the Parent for transportation services that were provided by the Parent.	Proof of Reimbursement	March 15, 2024
3. The District must reconvene the IEP Team to conduct a Manifestation Determination Review. The District must also hold an IEP meeting to discuss the need for compensatory services for time that the Student was removed.	Meeting Notice Evidence of discussion with Parent and compensatory services plan, if determined appropriate.	April 1, 2024 May 1, 2024
	Evidence of delivery of compensatory services, if determined appropriate.	February 15, 2025
4. The District must ensure that all District staff responsible for implementation of special education and related services and discipline receive training in each of the following areas: <ul style="list-style-type: none"> • IEP Implementation; • Discipline for Students with Disabilities; and • Manifestation Determination Review. 	Training agenda/materials to District Support Specialist for review/approval.	April 15, 2024
	Sign-in sheet for training.	June 15, 2024

Dated: this 22nd Day of February 2024



Tenneal Wetherell
Chief of Staff
Oregon Department of Education

E-mailing Date: February 22nd, 2024

Appeal Rights: Parties may seek judicial review of this Order. Judicial review may be obtained by filing a petition for review within sixty days from the service of this Order with the Marion County Circuit Court or with the Circuit Court for the County in which the party seeking judicial review resides. Judicial review is pursuant to the provisions of ORS § 183.484. (OAR 581-015-2030 (14).)